

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

BRITE SMART CORP.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. Action No. 2:14-cv-00760-JRG-RSP
	)	
GOOGLE INC.	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	
	)	
	)	
	)	

**JOINT MOTION TO AMEND THE DOCKET CONTROL ORDER**

Plaintiff Brite Smart and Defendant Google Inc. (the “Parties”) jointly move this Court for entry of the Proposed Second Amended Docket Control Order attached hereto as Exhibit A. Both parties have suggested revisions to the deadlines set by the Amended Docket Control Order (Dkt. 96.). The parties’ respective positions on these requests are set forth below, and the parties’ proposed revisions to the deadlines are shown in Exhibit A.

**Plaintiff’s Position:** The Court has not yet issued a claim construction order. The claim construction disputes were extensive, as there were forty-two disputes before the Court. The claim construction disputes will have a substantial impact on the expert reports. For example, the Plaintiff’s expert report on infringement may substantially vary in scope in terms of the accused instrumentalities depending upon the Court’s claim construction. Similarly, the Plaintiff’s expert report on damages will be affected by the patents asserted and the corresponding date of the hypothetical negotiation and the damages period. Given the substantial impact that the claim construction disputes will likely have on the opening expert

reports, Plaintiff therefore believes that Defendant's proposal for a 10-day extension is insufficient and Plaintiff instead seeks a 21-day extension to that deadline.

**Defendant's Position:** Google requests an amendment of the due date for letter briefs regarding dispositive motions under the current Amended Docket Control Order (Dkt. 96). Under the present Amended Docket Control Order, the deadline to file letter briefs regarding dispositive motions (presently July 27, 2015) occurs before the current deadline to file expert reports (presently August 10, 2015). As a result, the parties will not be able to rely on the expert reports in their dispositive motion letter briefs. Google proposes that the Deadline to File Letter Briefs Regarding Dispositive Motions be extended so that it occur after the deadline to Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof. This change would allow the parties to refer to the expert reports in their letter briefs, which will allow both parties to better crystallize the issues before the Court. Plaintiff has indicated it does not oppose this change in principal, but is concerned that extending the date for letter briefs until after expert reports are due would result in rejection of its proposed extension of the expert report deadline. As a compromise, Google proposes that the Deadline to File Letter Briefs Regarding Dispositive Motions be extended to August 27, and that the deadline to Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof be extended to August 20. This would allow the extension of the deadline for letter briefs to the benefit of the Court and parties, and would also provide a ten day extension of the date for opening expert reports to address Plaintiff's concerns. This will allow for more time for the Court to consider letter briefs regarding dispositive motions than Plaintiff's proposal.<sup>1</sup>

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<sup>1</sup> As with Plaintiff's proposal, Google's requested changes affect certain subsequent dates as outlined in the Proposed Second Amended Docket Control Order, attached as Exhibit A.

DATED: July 14, 2015

/s/ Robert Katz

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 14, 2015.

/s/ David A. Perlson

David A. Perlson